REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed February 22, 2006. In the Office Action, the Examiner notes that claims 1-53 are pending and rejected. By this response, claims 1, 29, 33, 44 and 50 are amended, and claims 20-22 have been canceled. No new matter has been added.

In view of both the amendments presented above and the following discussion, Applicants submit that none of the claims now pending in the application are indefinite, anticipated or obvious under the respective provisions of 35 U.S.C. §§112, 102 and 103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendment.

Objections

Specification

The Examiner has objected to the Abstract because lines 1-2 include the phrase "is described" and because the abstract also exceeds 150 words. In view of Applicants' amendment of the Abstract, Applicants submit that the Examiner's rejection is moot and should be withdrawn.

Claim

Claim 50 is objected to because in line 5 "sending" should be –searching–. In view of Applicants' claim amendment, Applicants submit that the Examiner's rejection is moot and should be withdrawn.

Rejection under 35 U.S.C. §112 of Claims 29 and 44

The Examiner has rejected claims 29 and 44 under 35 U.S.C. §112, ¶2. In particular, the Examiner finds that there is insufficient antecedent basis for the limitation "the aggregator local database" in line 2 of claim 29. Further, the Examiner finds claim

44 indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner finds that "[I]t is not clear whether 'the identifying step' listed in line 1 of claim 44 refers to the 'identifying one or more programs based on the searches' step found in line 8 of claim 33 or to the 'identifying program content based on one or more completed search requests' step found in line 4 of claim 43." Applicants respectfully traverse the Examiner's rejection.

Applicant has amended "the aggregator local database" of claim 29 to "an aggregator local data base" to clarify this limitation. Furthermore, the identifying step of claim 44 has been amended to ""the identifying program content step" to clarify that it is referring to the step in claim 43. In view of Applicants' claim amendments, Applicants submit that the Examiner's rejection is moot and should be withdrawn.

Rejection under 35 U.S.C. §102 of Claims 33, 39-42, 46, 47, 50, 51, and 53

The Examiner has rejected claims 33, 39-42, 46, 47, 50, 51, and 53 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,956,716 to Kenner (Kenner). Applicants respectfully traverse the Examiner's rejection.

Applicants' independent claims 33 and 50 recite:

> 33. A method using a video and multimedia aggregator for finding and retrieving program content from remote sources in a distributed digital communication network, comprising:
> receiving a program content search request from a user terminal in the network;
> searching a local content database based on the program content search request;
> searching one or more remote content databases based on the program content search request;
> identifying one or more programs based on the searches; and
> acquiring one or more of the one or more identified programs from one or more of the local content database and the remote databases;
> periodically crawling the communications network automatically; and
> retrieving programming information for programs not indexed on the aggregator.
>
> 50. A video and multimedia aggregator for use in a distributed digital communication network, comprising:
> means for requesting a search for program content;
> means for processing the search request;

means for searching local and remote sources for the program content;
means for acquiring metadata related to the program content;
means for displaying the acquired metadata;
means for receiving a program content download request;
means for acquiring the program content in the download request;
means for displaying the acquired program content at a user terminal;
means for billing a user of the user terminal; and
means for periodically crawling the communications network automatically, thereby retrieving programming information for programs not indexed on the aggregator.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. The Kenner reference fails to disclose each and every element of claims 33 and 50, as arranged in the claim. In particular, the Kenner reference discloses a video clip storage and retrieval system whereby video clips, stored locally and/or at a more remote location, can be requested and retrieved by a user at the user's multimedia terminal.

Nowhere in the Kenner reference is there teaching or suggestion of, "periodically crawling the communications network automatically; and retrieving programming information for programs not indexed on the aggregator" as explicitly claimed in claim 33. Moreover, Kenner reference does not teach or suggest, "means for periodically crawling the communications network automatically, thereby retrieving programming information for programs not indexed on the aggregator" as explicitly claimed in claim 50.

As such, Applicants submit that independent claims 33 and 50 are not anticipated and fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder. Furthermore, claims 39-42, 46, 47, 51, and 53 depend directly or indirectly from independent claims 33 and 50 and recite additional limitations thereof. Accordingly, for at least the same reasons as discussed above, Applicants submit that these dependent claim are also not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder.

Rejection under 35 U.S.C. §103 of Claims 1-5 and 30-32

The Examiner has rejected claims 1-5 and 30-32 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,600,573 to Hendricks et al. (Hendricks) in view of Kenner. Applicants respectfully traverse the Examiner's rejection.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. The Hendricks and Kenner references, alone or in combination, fail to teach or suggest Applicant's invention as a whole.

The Hendricks reference discloses an operations center including a system controller, a holder, a computer assisted packaging system that receives video on demand requests and determines whether the program is available for distribution and whether a link is available, and a receiver connected to the holder for receiving signals from a satellite or another remote source. The Hendricks reference fails to teach or suggest at least Applicants' claimed aggregator, comprising at least a search engine server comprising a remote content crawler coupled to a search engine processor, wherein the remote content crawler periodically crawls a communications network automatically and retrieves programming information for programs not indexed on the aggregator.

The Kenner reference fails to bridge the substantial gap between the Kenner reference and Applicants' claimed invention. In particular, the Kenner reference discloses using a primary index manager (PIM) to process user requests for video clips stored locally or remotely via a local search and retrieval unit (SRU). Nowhere in the Kenner reference is there any teaching or suggestion of Applicants' claimed aggregator, comprising at least a search engine server comprising a remote content crawler coupled to a search engine processor, wherein the remote content crawler periodically crawls a communications network automatically and retrieves programming information for programs not indexed on the aggregator.

Thus, Hendricks and Kenner, singly or in combination, fail to disclose the invention as a whole. As such, Applicants submit that independent claim 1 is not obvious and fully satisfies the requirements of 35 U.S.C. §103 and is patentable thereunder. Furthermore, claims 2-5 and 30-32 depend directly from independent claim

1 and recite additional limitations thereof. As such, and for at least the same reasons as discussed above, Applicants submit that these dependent claims are also not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder.

Therefore, Applicants respectfully request that this rejection under 35 U.S.C. §103(a) be withdrawn.

Rejection under 35 U.S.C. §103 of Claims 6-10 and 14-29

The Examiner has rejected claims 6-10 and 14-29 under 35 U.S.C. §103(a) as being unpatentable over Hendricks and Kenner as applied to claim 1 above, and further in view of Cappi U.S. Patent Publication 2002/0038308 A1 (Cappi). Applicants respectfully traverse the rejection.

Claims 20-22 have been canceled. Claims 6-10, 14-19 and 23-29 depend, either directly or indirectly, from independent claim 1, and recite additional limitations thereof. Moreover, for at least the reasons discussed above, the Hendricks and Kenner references fail to teach or suggest Applicants' invention as a whole, as recited in claim 1. Cappi does not teach or suggest what is missing from Hendricks and Kenner as described above. Accordingly, any attempted combination of the Hendricks and Kenner references with any other additional references, in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claim. As such, Applicants submit that dependent claims 6-10 and 14-29 are also not obvious and are patentable under 35 U.S.C. §103.

Therefore, Applicants respectfully request that this rejection under 35 U.S.C. §103(a) be withdrawn.

Rejection under 35 U.S.C. §103 of Claims 11-13

The Examiner has rejected claims 11-13 under 35 U.S.C. §103(a) as being unpatentable over Hendricks, Kenner and Cappi as applied to claim 10 above, and further in view of Whitman et al. U.S. Patent 6,772,150 (Whitman) and Grooters U.S. Patent 6,839,705 (Grooters). Applicants respectfully traverse the rejection.

Claims 11-13 depend directly or indirectly from independent claim 1 and recite additional limitations thereof. Moreover, for at least the reasons discussed above, the Hendricks, Kenner and Cappi references fail to teach or suggest Applicants' invention as a whole, as recited in claim 1. Whitman and Grooters also do not teach or suggest at least "a remote content crawler coupled to the search engine processor, wherein the remote content crawler periodically crawls the communications network automatically and retrieves programming information for programs not indexed on the aggregator." Accordingly, any attempted combination of the Hendricks, Kenner and Cappi references with the Whitman and Grooters references, in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claim because they all lack the feature of periodically crawling the communications network automatically and retrieving programming information for programs not indexed on the aggregator. As such, Applicants submit that dependent claims 11-13 are also not obvious and are patentable under 35 U.S.C. §103.

Therefore, Applicants respectfully request that this rejection under 35 U.S.C. §103(a) be withdrawn.

Rejection under 35 U.S.C. §103 of Claims 34-36

The Examiner has rejected claims 34-36 under 35 U.S.C. §103(a) as being unpatentable over Kenner in view of Whitman. Applicants respectfully traverse the rejection.

Kenner does not teach or suggest periodically crawling the communications network automatically and retrieving programming information for programs not indexed on the aggregator as stated above. Whitman also does not teach or suggest that limitation. Thus, Kenner and Whitman, singly or in combination, fail to disclose the invention as a whole. As such, Applicants submit that dependent claims 34-36 are also not obvious and are patentable under 35 U.S.C. §103.

Therefore, Applicants respectfully request that this rejection under 35 U.S.C. §103(a) be withdrawn.

Rejection under 35 U.S.C. §103 of Claims 37 and 38

The Examiner has rejected claims 37 and 38 under 35 U.S.C. §103(a) as being unpatentable over Kenner and Whitman as applied to claim 35 above, and further in view of Nelson et al. U.S. Patent 6,243,713 (Nelson). Applicants respectfully traverse the rejection.

Claims 37 and 38 depend indirectly from independent claim 33 and recite additional limitations thereof. Moreover, for at least the reasons discussed above, the Kenner and Whitman references fail to teach or suggest Applicants' invention as a whole, as recited in claim 33. Nelson does not teach or suggest the gap between Kenner and Whitman as stated above. Accordingly, any attempted combination of the Kenner and Whitman references with Nelson, in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claim. As such, Applicants submit that dependent claims 37 and 38 are also not obvious and are patentable under 35 U.S.C. §103.

Therefore, Applicants respectfully request that this rejection under 35 U.S.C. §103(a) be withdrawn.

Rejection under 35 U.S.C. §103 of Claims 43 and 44

The Examiner has rejected claims 43 and 44 under 35 U.S.C. §103(a) as being unpatentable over Kenner in view of Brin et al., The Anatomy of a Large-Scale Hypertextual Web Search Engine, supplied by applicant on August 3, 2001 (Brin). Applicants respectfully traverse the rejection.

Claims 43 and 44 depend directly or indirectly from independent claim 33 and recite additional limitations thereof. Moreover, for at least the reasons discussed above, the Kenner reference fails to teach or suggest Applicants' invention as a whole, as recited in claim 33. Brim does not teach or suggest the limitations of claim 33 such as periodically crawling the communications network automatically and retrieving programming information for programs not indexed on the aggregator.

Thus, Kenner and Brin, singly or in combination, fail to teach or suggest the invention of claims 43 and 44 as a whole. As such, Applicants submit that dependent claims 43 and 44 are also not obvious and are patentable under 35 U.S.C. §103.

Therefore, Applicants respectfully request that this rejection under 35 U.S.C. §103(a) be withdrawn.

Rejection under 35 U.S.C. §103 of Claim 45

The Examiner has rejected claim 45 under 35 U.S.C. §103(a) as being unpatentable over Kenner and Brin as applied to claim 44 above, and further in view of Grooters. Applicants respectfully traverse the rejection.

Claim 45 depends indirectly from independent claim 33 and recites additional limitations thereof. Moreover, for at least the reasons discussed above, the Kenner and Brin references fail to teach or suggest Applicants' invention as a whole, as recited in claim 33. Grooters also does not teach or suggest the limitations such as periodically crawling the communications network automatically and retrieving programming information for programs not indexed on the aggregator.

Accordingly, any attempted combination of the Kenner and Brin references with Grooters, in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claim. As such, Applicants submit that dependent claim 45 is also not obvious and is patentable under 35 U.S.C. §103.

Therefore, Applicants respectfully request that this rejection under 35 U.S.C. §103(a) be withdrawn.

Rejection under 35 U.S.C. §103 of Claim 48

The Examiner has rejected claim 48 under 35 U.S.C. §103(a) as being unpatentable over Kenner in view of Grooters. Applicants respectfully traverse the rejection.

Claim 48 depends indirectly from independent claim 33 and recites additional limitations thereof. Moreover, for at least the reasons discussed above, the Kenner reference fail to teach or suggest Applicants' invention as a whole, as recited in claim 33. Grooters also does not teach or suggest the limitations such as periodically crawling the communications network automatically and retrieving programming information for programs not indexed on the aggregator.

Accordingly, any attempted combination of the Kenner reference with Grooters reference, in a rejection against the dependent claims, would still result in a gap in the combined teachings in regards to the independent claim. As such, Applicants submit that dependent claim 48 is also not obvious and is patentable under 35 U.S.C. §103.

Therefore, Applicants respectfully request that this rejection under 35 U.S.C. §103(a) be withdrawn.

Rejection under 35 U.S.C. §103 of Claims 49 and 52

The Examiner has rejected claims 49 and 52 under 35 U.S.C. §103(a) as being unpatentable over Kenner in view of Nelson. Applicants respectfully traverse the rejection.

As stated above, Kenner does not teach or suggest periodically crawling the communications network automatically and retrieving programming information for programs not indexed on the aggregator.

Nelson discloses multimedia document retrieval by retrieving multimedia queries of different data types. Nelson also does not teach or suggest periodically crawling the communications network automatically and retrieving programming information for programs not indexed on the aggregator. As such, Applicants submit that dependent claims 49 and 52 are also not obvious and are patentable under 35 U.S.C. §103.

Therefore, Applicants respectfully request that the rejection of such claims under 35 U.S.C. §103(a) be withdrawn.

Official Notices

The Office Action takes numerous Official Notices. Applicants hereby traverse each Official Notice. The Examiner generally alleges that certain apparatuses and/or methods are well known in the art. However, the Applicants respectfully disagree. These apparatuses and/or methods may not be well known within the specific art of the present invention and as specifically recited in their respective claims. Furthermore, it may not be well known to combine the allegedly well known apparatuses and/or methods with other apparatuses and/or methods recited in the respective claims or in

other claims from which the respective claims may depend. For example, routing administrative data, crawling, user network address, public encryption key, digital rights management parameter, content formats and a current hardware configuration, search request times, authorization code and password, user profile to assist in sorting and filtering are not well known in the with respect to the invention as a whole. Applicants respectfully request references showing these features.

CONCLUSION

Thus, Applicants submit that none of the claims presently in the application, are indefinite, anticipated or obvious under the respective provisions of 35 U.S.C. §§112, 102 or 103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jasper Kwoh at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 5/18/06

E J Wall

Eamon J. Wall
Registration No. 39,414
Attorney for Applicant

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808